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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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**DAVID WEBB,**

**Plaintiff,**

**v.**

**STATE OF UTAH et al.,**

**Defendants.**

**REPORT AND RECOMMENDATION**

**Case No. 2:16-cv-00017-JNP-PMW**

**District Judge Jill N. Parrish**

**Magistrate Judge Paul M. Warner**

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District Judge Jill N. Parrish referred this case to Magistrate Judge Paul M. Warner pursuant to 28 U.S.C. § 636(b)(1)(B).<sup>1</sup> The court permitted Plaintiff David Webb (“Plaintiff”) to proceed *in forma pauperis* (“IFP”) under 28 U.S.C. § 1915.<sup>2</sup> Pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), this court previously issued a report and recommendation reviewing the sufficiency of Plaintiff’s complaint.<sup>3</sup> In that report, the court noted substantive defects in the operative complaint and recommended that the complaint be dismissed with leave to amend.<sup>4</sup> The district court adopted the report and recommendation in full, dismissed the operative complaint, and gave Plaintiff “21 days to file an amended complaint, without naming any additional

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<sup>1</sup> Docket no. 7.

<sup>2</sup> Docket no. 3.

<sup>3</sup> Docket no. 10.

<sup>4</sup> *Id.*

defendants, to correct the jurisdiction and other defects.”<sup>5</sup> Plaintiff filed a second amended complaint on June 16, 2016.<sup>6</sup>

Having reviewed the second amended complaint, this court finds that Plaintiff failed to resolve the substantive defects discussed in the prior report and recommendation. Accordingly, **IT IS HEREBY RECOMMENDED** that Plaintiff’s second amended complaint be **DISMISSED**. Because Plaintiff was previously given leave to amend to address these defects, **IT IS RECOMMENDED** that the case be dismissed with prejudice.

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Copies of this Report and Recommendation are being sent to Plaintiff, who is hereby notified of his right to object. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Plaintiff must file any objection to this Report and Recommendation within fourteen (14) days after being served with a copy of it. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Failure to object may constitute waiver of objections upon subsequent review.

**IT IS SO ORDERED.**

DATED this 15th day of September, 2016.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "Paul M. Warner", is written over a horizontal line.

PAUL M. WARNER  
United States Magistrate Judge

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<sup>5</sup> Docket no. 14.

<sup>6</sup> Docket no. 16.